



General Assembly

February Session, 2016

***Raised Bill No. 430***

LCO No. 2756



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING EMPLOYMENT FOLLOWING AN ARREST,  
CRIMINAL CHARGE OR CONVICTION AND EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION GUIDANCE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-51i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) For the purposes of this section, "employer" means any person  
4 engaged in business who has one or more employees, including the  
5 state or any political subdivision of the state.

6 (b) No employer or employer's agent, representative or designee  
7 may require an employee or prospective employee to disclose the  
8 existence of any arrest, criminal charge or conviction, the records of  
9 which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

10 (c) An employment application form that contains any question  
11 concerning the criminal history of the applicant shall contain a notice,  
12 in clear and conspicuous language: (1) That the applicant is not  
13 required to disclose the existence of any arrest, criminal charge or

14 conviction, the records of which have been erased pursuant to section  
15 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure  
16 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to  
17 a finding of delinquency or that a child was a member of a family with  
18 service needs, an adjudication as a youthful offender, a criminal charge  
19 that has been dismissed or nolle, a criminal charge for which the  
20 person has been found not guilty or a conviction for which the person  
21 received an absolute pardon, and (3) that any person whose criminal  
22 records have been erased pursuant to section 46b-146, 54-76o or 54-  
23 142a shall be deemed to have never been arrested within the meaning  
24 of the general statutes with respect to the proceedings so erased and  
25 may so swear under oath.

26 (d) No employer or employer's agent, representative or designee  
27 shall deny employment to a prospective employee solely on the basis  
28 that the prospective employee had a prior arrest, criminal charge or  
29 conviction, the records of which have been erased pursuant to section  
30 46b-146, 54-76o or 54-142a or that the prospective employee had a prior  
31 conviction for which the prospective employee has received a  
32 provisional pardon or certificate of rehabilitation pursuant to section  
33 54-130a, or a certificate of rehabilitation pursuant to section 54-108f.

34 (e) No employer or employer's agent, representative or designee  
35 shall discharge, or cause to be discharged, or in any manner  
36 discriminate against, any employee solely on the basis that the  
37 employee had, prior to being employed by such employer, an arrest,  
38 criminal charge or conviction, the records of which have been erased  
39 pursuant to section 46b-146, 54-76o or 54-142a or that the employee  
40 had, prior to being employed by such employer, a prior conviction for  
41 which the employee has received a provisional pardon or certificate of  
42 rehabilitation pursuant to section 54-130a, or a certificate of  
43 rehabilitation pursuant to section 54-108f.

44 (f) The portion of an employment application form which contains  
45 information concerning the criminal history record of an applicant or

46 employee shall only be available to the members of the personnel  
47 department of the company, firm or corporation or, if the company,  
48 firm or corporation does not have a personnel department, the person  
49 in charge of employment, and to any employee or member of the  
50 company, firm or corporation, or an agent of such employee or  
51 member, involved in the interviewing of the applicant.

52 (g) Notwithstanding the provisions of subsection (f) of this section,  
53 the portion of an employment application form which contains  
54 information concerning the criminal history record of an applicant or  
55 employee may be made available as necessary to persons other than  
56 those specified in said subsection (f) by:

57 (1) A broker-dealer or investment adviser registered under chapter  
58 672a in connection with (A) the possible or actual filing of, or the  
59 collection or retention of information contained in, a form U-4 Uniform  
60 Application for Securities Industry Registration or Transfer, (B) the  
61 compliance responsibilities of such broker-dealer or investment  
62 adviser under state or federal law, or (C) the applicable rules of self-  
63 regulatory organizations promulgated in accordance with federal law;

64 (2) An insured depository institution in connection with (A) the  
65 management of risks related to safety and soundness, security or  
66 privacy of such institution, (B) any waiver that may possibly or  
67 actually be sought by such institution pursuant to section 19 of the  
68 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or  
69 actual obtaining by such institution of any security or fidelity bond, or  
70 (D) the compliance responsibilities of such institution under state or  
71 federal law; and

72 (3) An insurance producer licensed under chapter 701a in  
73 connection with (A) the management of risks related to security or  
74 privacy of such insurance producer, or (B) the compliance  
75 responsibilities of such insurance producer under state or federal law.

76 (h) Each employer shall adhere to guidance issued by the federal

77 Equal Employment Opportunity Commission concerning the use of  
78 arrest or conviction records in employment decisions under Title VII of  
79 the Civil Rights Act of 1964, as amended.

80 [(h)] (i) (1) For the purposes of this subsection: (A) "Consumer  
81 reporting agency" means any person who regularly engages, in whole  
82 or in part, in the practice of assembling or preparing consumer reports  
83 for a fee, which reports compile and report items of information on  
84 consumers that are matters of public record and are likely to have an  
85 adverse effect on a consumer's ability to obtain employment, but does  
86 not include any public agency; (B) "consumer report" means any  
87 written, oral or other communication of information bearing on an  
88 individual's credit worthiness, credit standing, credit capacity,  
89 character, general reputation, personal characteristics or mode of  
90 living; and (C) "criminal matters of public record" means information  
91 obtained from the Judicial Department relating to arrests, indictments,  
92 convictions, outstanding judgments, and any other conviction  
93 information, as defined in section 54-142g.

94 (2) Each consumer reporting agency that issues a consumer report  
95 that is used or is expected to be used for employment purposes and  
96 that includes in such report criminal matters of public record  
97 concerning the consumer shall:

98 (A) At the time the consumer reporting agency issues such  
99 consumer report to a person other than the consumer who is the  
100 subject of the report, provide the consumer who is the subject of the  
101 consumer report (i) notice that the consumer reporting agency is  
102 reporting criminal matters of public record, and (ii) the name and  
103 address of the person to whom such consumer report is being issued;

104 (B) Maintain procedures designed to ensure that any criminal  
105 matter of public record reported is complete and up-to-date as of the  
106 date the consumer report is issued, which procedures shall, at a  
107 minimum, conform to the requirements set forth in section 54-142e.

108 (3) This subsection shall not apply in the case of an agency or  
 109 department of the United States government seeking to obtain and use  
 110 a consumer report for employment purposes if the head of the agency  
 111 or department makes a written finding pursuant to 15 USC  
 112 1681b(b)(4)(A).

113 Sec. 2. Subsection (a) of section 54-142e of the general statutes is  
 114 repealed and the following is substituted in lieu thereof (*Effective*  
 115 *October 1, 2016*):

116 (a) Notwithstanding the provisions of subsection (e) of section 54-  
 117 142a and section 54-142c, with respect to any person, including, but not  
 118 limited to, a consumer reporting agency as defined in [subsection (h)  
 119 of] section 31-51i, as amended by this act, that purchases criminal  
 120 matters of public record, as defined in [said subsection (h)] section 31-  
 121 51i, as amended by this act, from the Judicial Department, the  
 122 department shall make available to such person information  
 123 concerning such criminal matters of public record that have been  
 124 erased pursuant to section 54-142a. Such information may include  
 125 docket numbers or other information that permits the person to  
 126 identify and permanently delete records that have been erased  
 127 pursuant to section 54-142a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	31-51i
Sec. 2	<i>October 1, 2016</i>	54-142e(a)

***Statement of Purpose:***

To require employers to adhere to guidance issued by the federal Equal Employment Opportunity Commission.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*